IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 26955 of 2004(H)

PETITIONER:

REJI MICHAEL, MANARKATTU HOUSE,
PALA-686 575, KOTTAYAM.

BY ADV. SMT.S.K.DEVI
SRI.K.P.PRADEEP (PAYYANNUR)

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF COMMERCE,
MINISTRY OF COMMERCE AND INDUSTRY,
NEW DELHI.

2. ASSISTANT PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, CHALAKKUZHI BUILDINGS,
CMS COLLEGE ROAD, KOTTAYAM-686 001.

3. RECOVERY OFFICER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, KOTTAYAM.

4. REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANISATION,
SUB REGIONAL OFFICE, KOTTAYAM./

BY ADV. SRI.N.N. SUGUNAPALAN, SC, P.F.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 26955/04

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE EXTRA ORDINARY GAZETTE NOTIFICATION DT. 24.1.2003 ISSUED BY THE DEPT. OF COMMERCE, MINISTRY OF COMMERCE AND INDUSTRY TO THE GOVT. OF INDIA UNDER SUB SECTION (1) OF SECTION 16b OF THE TEA ACT, 1953

EXT.P2: -DO- OF THE RELEVANT PAGES OF THE REPORT OF THE EXPERT COMMITTEE ON STUDY OF CLOSED TEA GARDENS IN THE STATE OF KERALA DT. NIL

EXT.P3: -DO- OF THE ORDER NO: KR/KTM/264/ENF.1(4)/2004 DT. 4.3.2004 ISSUED BY THE SECOND RESPONDENT

EXT.P4: -DO- OF THE PAYMENT CHALLAN FOR RS.93,949/- DT. 20.5.2002

EXT.P4A: -DO- FOR rS.88,924/0 DT. 20.5.2002

EXT.P4B: -DO- FOR RS.1,12,133/- DT. 20/4/2002

EXT.P4C: -DO- FOR RS. 133/- DT. 9.8.2004

EXT.P5: -DO- OF THE NOTICE TO THE 1ST PETITIONER ISSUED BY THE THIRD RESPONDENT NO: KR/KTM/264/EF/(4)/04/956 DT. 29.7.2004

EXT.P6: -DO- OF THE REPRESENTATION FILED BY M/S. MMJ PLANTATIONS, PALA DT. 18/8/2004 BEFORE THE FOURTH RESPONDENT

RESPONDENTS' EXTS:

EXT.R4A: -DO- OF THE STATEMENT FOR THE PERIOD FROM 3/02 TO 12/03

EXT.R4B: -DO- OF THE ORDER IN W.P NO: 117798 OF THE HONOURABLE HIGH COURT OF CALCUTTA

jj /TRUE COPY/

P.A. TO JUDGE

KURIAN JOSEPH, J.

W.P.(C) NO. 26955 OF 2004

Dated this the 23rd day of November, 2007.

J U D G M E N T

This writ petition is filed with the following prayers:

> i) To issue writ of certiorari or any other appropriate writ, or direction to quash the Ext. P5 notices issued by the second respondent.
>
> ii) To issue writ of mandamus or any other appropriate writ or direction to direct the second, third and fourth respondents to keep in abeyance of the recovery and penal proceedings for the amount due as per Ext. P3 order in pursuance to Ext. P5 notice till a final decision is taken by the Government of India in Ext. P2 Expert Committee Report.

On 14.09.2004, this Court passed the following order:

> "...Prosecution steps against the management may not be initiated until further orders. However, other steps for recovery would be continued..."

2. In view of the order as above, no serious prejudice will be caused to the Provident Fund Organization by deferring the prosecution steps till Government of India takes a final decision on Exhibit P2 Expert Committee Report.

This writ petition is disposed of in terms of the interim order referred to above making it clear that the prosecution steps if required shall be taken only after Government of India takes a decision on Exhibit P2 report.

KURIAN JOSEPH, JUDGE.

smp